

2004 - Transportation House Pending Rule (Yellow)

ADMINISTRATIVE RULES REVIEW

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Legislative Session 2004

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IDAPA 11 - IDAHO STATE POLICE

11.13.01 - THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 67, Chapter 29, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the November 6, 2002, Administrative Bulletin, Volume 02-11, pages 24 and 25.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Margaret P. White at 884-7050.

DATED this 10th day of December, 2002.

Margaret P. White
Deputy Attorney General
Department of Law Enforcement
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)

IDAPA 11, TITLE 13, Chapter 01

THE MOTOR CARRIER RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-11, November 6, 2002, pages 24 and 25.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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IDAPA 11 - IDAHO STATE POLICE

11.13.01 - THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-0201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective October 1, 2002.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-2901A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 20, 2002.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the proposed rule: The proposed rule is intended to add the Adoption of Registration Enforcement; Part 356 - Authority to Serve a Particular Section - Construction; Part 365 - How to Apply Operating Authority; Part 387 - Financial Responsibility; and update the Code of Federal Regulations to correctly show volume October 1, 2002.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: It is necessary to further clarify the rule by adding the adoption of federal regulations pursuant to registration enforcement.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Margaret P. White at 884-7050.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before November 27, 2002.

DATED this 30th day of September, 2002.

Margaret P. White
Deputy Attorney General
Department of Law Enforcement
P.O. Box 700, Meridian, ID 83680-0700
(208) 884-7050 / (208) 884-7090 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1301-0201

019. CARRIER SAFETY REQUIREMENTS.

01. Adoption Of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). The subject matter of 49 CFR

2004 - Transportation House Pending Rule (Yellow)

IDAHO STATE POLICE The Motor Carrier Rules

Docket No. 11-1301-0201 Temporary and Proposed Rulemaking

391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under this Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388.

~~(4-5-00)~~(10-1-02)T

02. Obligation Of Familiarity With Rules. All interstate and foreign carriers and all intrastate carriers subject to these Rules at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: (4-5-00)

- | | | |
|----------------------|--|-------------------|
| a. | <u>Part 356. Authority to Serve a Particular Section - Construction.</u> | <u>(10-1-02)T</u> |
| b. | <u>Part 365. How to Apply for Operating Authority.</u> | <u>(10-1-02)T</u> |
| c. | Part 382. Controlled Substance and Alcohol Use and Testing. | (4-5-00) |
| d. | Part 383. Commercial Driver's License Standards; Requirements and Penalties. | (4-5-00) |
| e. | Part 385. Safety Fitness Standards. | (4-5-00) |
| f. | <u>Part 387. Financial Responsibility.</u> | <u>(10-1-02)T</u> |
| g. | Part 388. Cooperative Agreements with States. | (4-5-00) |
| h. | Part 390. Federal Motor Carrier Safety Regulations: General. | (4-5-00) |
| i. | Part 391. Qualifications of Drivers. | (4-5-00) |
| j. | Part 392. Driving of Motor Vehicles. | (4-5-00) |
| k. | Part 393. Parts and Accessories Necessary for Safe Operation. | (4-5-00) |
| l. | Part 395. Hours of Service of Drivers. | (4-5-00) |
| m. | Part 396. Inspection, Repair and Maintenance. | (4-5-00) |
| n. | Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. | (4-5-00) |
| o. | Part 398. Transportation of Migrant Workers. | (4-5-00) |
| p. | Part 399. Employee Safety and Health Standards. | (4-5-00) |

03. Recognition Of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (4-5-00)

04. Version Of Federal Regulations Adopted. The federal regulations adopted by reference in this Subsection 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399 published in the Code of Federal Regulations volumes dated October 1, ~~1998~~ 2002, and as subsequently recompiled. ~~(4-5-00)~~(10-1-02)T

2004 - Transportation House Pending Rule (Yellow)

IDAPA 11 - IDAHO STATE POLICE

11.13.01 - THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-2901A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 3, 2003 Idaho Administrative Bulletin, Volume 03-9, pages 95 through 97.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Captain Lamont Johnston at (208) 884-7221.

DATED this 26th day of September, 2003.

Colonel R. Dan Charboneau
Director
Idaho State Police
700 S. Stratford Dr.
P.O. Box 700
Meridian, ID 83680-0700
(2089) 884-7003 / 884-7090 (FAX)

IDAPA 11, TITLE 13, CHAPTER 01

THE MOTOR CARRIER RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 95 through 97.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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IDAPA 11 - IDAHO STATE POLICE

11.13.01 - THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 4, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-2901A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The temporary rule incorporates by reference a version of 39 CFR Parts 393 and 395 effective January 4, 2004, governing commercial vehicle load securement and driver hours of service, respectively.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Protection of the public safety, or welfare and compliance with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Captain Lamont Johnston at (208) 884-7221.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

DATED this 28th day of July, 2003.

R. Dan Charboneau, Director
Idaho State Police
700 S. Stratford Dr.
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7003
884-7090 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1301-0301

2004 - Transportation House Pending Rule (Yellow)

IDAHO STATE POLICE
The Motor Carrier Rules

Docket No. 11-1301-0301
Temporary and Proposed Rulemaking

019. CARRIER SAFETY REQUIREMENTS.

01. Adoption Of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under this Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388.

(10-1-02)T

02. Obligation Of Familiarity With Rules. All interstate and foreign carriers and all intrastate carriers subject to these Rules at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter:

(4-5-00)

- a. Part 356. Authority to Serve a Particular Section - Construction. (10-1-02)T
- b. Part 365. How to Apply for Operating Authority. (10-1-02)T
- c. Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)
- d. Part 383. Commercial Driver's License Standards; Requirements and Penalties. (4-5-00)
- e. Part 385. Safety Fitness Standards. (4-5-00)
- f. Part 387. Financial Responsibility. (10-1-02)T
- g. Part 388. Cooperative Agreements with States. (4-5-00)
- h. Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)
- i. Part 391. Qualifications of Drivers. (4-5-00)
- j. Part 392. Driving of Motor Vehicles. (4-5-00)
- k. Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)
- l. Part 395. Hours of Service of Drivers. (4-5-00)
- m. Part 396. Inspection, Repair and Maintenance. (4-5-00)
- n. Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)
- o. Part 398. Transportation of Migrant Workers. (4-5-00)
- p. Part 399. Employee Safety and Health Standards. (4-5-00)

03. Recognition Of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and

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IDAHO STATE POLICE
The Motor Carrier Rules

Docket No. 11-1301-0301
Temporary and Proposed Rulemaking

been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (4-5-00)

04. Version Of Federal Regulations Adopted. The federal regulations adopted by reference in this Subsection 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388, ~~and~~ 390 through 394, and 396 through 399 published in the Code of Federal Regulations volumes dated October 1, 2002, and ~~as subsequently recompiled~~ Parts 393 and 395 published in the Code of Federal Regulations volumes dated January 4, 2004. ~~(10-1-02)T~~(1-4-04)T

05. Availability Of Incorporated Documents. The 49 CFR's can be found at www.fmcsa.dot.gov or copies may be viewed at the central office of the Idaho State Police. (1-4-04)T

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IDAPA 35 - STATE TAX COMMISSION

35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 3, 2003, Idaho Administrative Bulletin, Volume 03-9, pages 222 through 224.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Randy Nilson, at (208) 334-7530.

DATED this 29th day of October, 2003.

Randy Nilson, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 05

IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 222 and 224.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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IDAPA 35 - STATE TAX COMMISSION

35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 270 is being amended to clarify which motor fuel users who have single storage tanks cannot use the proration method granted in Subsection 270.05 of that rule. The amended language in this rule is actually less restrictive than the current language of this rule. To remove reference to 26,000 pounds maximum gross weight and list which motor fuels users who do not qualify to use the proration method because of other recordkeeping requirements. To correct a misspelled word.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Randy Nilson, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

DATED this 31st day of July, 2003.

Randy Nilson, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-0301

270. REFUND CLAIMS--DOCUMENTATION (Rule 270).

01. Refunds To Consumers. Any buyer of motor fuels, claiming a refund under Chapter 24, Title 63, Idaho Code, must retain in his records the original invoices from the seller, showing the number of gallons purchased.

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STATE TAX COMMISSION
Motor Fuels Tax**Docket No. 35-0105-0301**
Proposed Rulemaking

All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or a double-faced carbon must be used between the original and first duplicate. Only one (1) original invoice may be issued for each delivery. In addition to the requirements outlined above, each invoice must contain or show the following: (7-1-98)

- a. A preprinted serial number; (7-1-98)
- b. Name and address of seller; (7-1-98)
- c. Name of purchaser; (7-1-98)
- d. Date of delivery; (7-1-98)
- e. Type of motor fuel; (7-1-98)
- f. Gallons invoiced; (7-1-98)
- g. Price per gallon; (7-1-98)
- h. At least one (1) of the following to establish that tax has been charged: (7-1-98)
 - i. The amount of Idaho state fuels tax; (7-1-98)
 - ii. The rate of Idaho state fuels tax; or (7-1-98)
 - iii. A statement that the Idaho state fuels tax is included in the price. (7-1-98)

02. Corrected Invoices. No altered or corrected invoice will be accepted for refund purposes. When errors occur, the original invoice must not be altered or corrected, but must be voided and a new original invoice issued. All altered or corrected invoices must be marked as voided and retained by the seller for at least three (3) years from the date issued. (7-1-98)

03. Invoice Retention. The original invoices required by Subsection 270.01 of this rule shall be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the State Tax Commission or by voluntary action of the taxpayer. (7-1-98)

04. Refund Documents. For refund claims under Section 63-2410(5)(c), Idaho Code, an original invoice includes any duplicate of the original that is created with the same impression as the original, for example, with carbon paper or NCR paper, if the original is retained by the seller and only the duplicate is provided to the customer. An original invoice does not include any document produced by a copy machine or similar device capable of producing a copy of an existing document. (7-1-98)

05. Records Required For Motor Fuels Tax Refunds. Each claimant shall maintain records that are sufficient to prove the accuracy of the fuels tax refund claim. Such records shall include all motor fuels receipts, the gallons of tax-paid fuel used in each type of equipment, both refundable and nonrefundable, and other uses. The records must show the date of receipt or disbursements and identify the equipment into which the tax-paid fuel is dispensed. Failure of the claimant to maintain the required records and to provide them for examination is a waiver of all rights to the refund. The following rules shall govern records maintained to support claims for refund. (7-1-98)

a. Use of Fuel from a Single Storage Tank. Tax-paid fuel (other than fuel purchased by persons who operate motor vehicles that are ~~over twenty-six thousand (26,000) pounds maximum gross weight~~ licensed under IFTA or by persons who operate non-IFTA motor vehicles who claim refunds for nontaxable uses of motor fuels in motor vehicles granted in Rule 292 of these rules) purchased and delivered into a single bulk storage tank and withdrawn for both nontaxable and taxable uses must be accounted for using either the proration provided by this paragraph or by records showing actual taxable and nontaxable usage. If the proration is used, sixty percent (60%) of all taxed diesel fuel or twenty-five percent (25%) of all taxed gasoline delivered into bulk storage shall be presumed to be for exempt uses unless another percentage is requested by the taxpayer and authorized by the State Tax Commission. The request shall itemize anticipated uses by type of equipment based on previously experienced use.

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STATE TAX COMMISSION
Motor Fuels Tax**Docket No. 35-0105-0301**
Proposed Rulemaking

The State Tax Commission will refund taxes paid on the percentage of taxed fuel presumed to be exempt. If refunds are claimed based on records of actual use, the records must be made available upon request. In either case, invoices showing the fuel purchases on which tax was paid must be retained to support each refund claim. The proration or another percentage granted by this paragraph cannot be used if you have separate storage tanks for undyed diesel and dyed diesel. (7-1-98)()

b. Use of Fuel from Multiple Storage Tanks. When separate bulk storage tanks are maintained for both exempt and taxable uses, the seller must mark the invoices at the time of delivery, identifying the storage tanks into which the fuel was delivered. Detailed withdrawal records will only be required if fuel is used by motor vehicles licensed under IFTA or by persons who operate non-IFTA motor vehicles who claim refunds for nontaxable uses of motor fuels in motor vehicles granted in Rule 292 of these rules. All fuel invoices must be retained as required by Subsection 270.03 of this rule. Exempt fuel may not be used in motor vehicles licensed or required to be licensed. (7-1-98)()

c. Use of Fuel for Other Than Bulk Storage. Fuel dispensed into small containers for use in, or into the supply tank of, stationary engines, equipment, commercial motorboats, or vehicles other than licensed motor vehicles, must be identified on the purchase invoice. No other records will be required. (7-1-98)

2004 - Transportation House Pending Rule (Yellow)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.47 - RULES GOVERNING REVOCATION OF VEHICLE REGISTRATION FOR FAILURE TO COMPLY WITH A MOTOR VEHICLE EMISSION INSPECTION ORDINANCE

DOCKET NO. 39-0247-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-201(1) and 49-202(12)f, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, pages 71 through 73.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

DATED this 30th day of July, 2003.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39, TITLE 02, CHAPTER 47

RULES GOVERNING REVOCATION OF VEHICLE REGISTRATION FOR FAILURE TO COMPLY WITH A MOTOR VEHICLE EMISSION INSPECTION ORDINANCE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 71 through 73.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Transportation House Pending Rule (Yellow)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.47 - RULES GOVERNING REVOCATION OF VEHICLE REGISTRATION FOR FAILURE TO COMPLY WITH A MOTOR VEHICLE EMISSION INSPECTION ORDINANCE

DOCKET NO. 39-0247-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 49-201(1) and 49-202(12)(f), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2003

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Senate Bill 1064, 2003 Legislative Session, has amended Section 49-520, Idaho Code, eliminating the requirement to use certified mail when sending a revocation of vehicle registration. This change is effective July 1, 2003. IDAPA 39.02.47 is being amended to comply with those changes with the same effective date.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with amendments to governing law.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this change is necessary to bring the rule into compliance with Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 21st day of May, 2003.

Linda L. Emry
Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

2004 - Transportation House Pending Rule (Yellow)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0247-0301

000. LEGAL AUTHORITY.

This rule is adopted under the authority of Sections 49-201(1) and 49-202(1~~7~~2)(~~g~~f), Idaho Code. ~~(1-2-93)~~(7-1-03)T

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.02.47, "Rules Governing Revocation of Vehicle Registration for Failure to Comply With a Motor Vehicle Emission Inspection Ordinance," IDAPA 39, Title 02, Chapter 47. (7-1-03)T

02. Scope. The rule establishes the procedure for revoking the vehicle registration of an owner who fails to comply with approved ordinances requiring motor vehicle emission inspection and readjustment. ~~(1-2-93)~~(7-1-03)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (7-1-03)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (7-1-03)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (7-1-03)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street And Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. (7-1-03)T

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (7-1-03)T

03. Telephone And FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858. (7-1-03)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (7-1-03)T

007. -- 099. (RESERVED).

100. NOTIFICATION OF FAILURE TO COMPLY AND REGISTRATION REVOCATIONS.

The county air quality agency shall provide the Department with ~~hard-copy~~ certification ~~that~~ of: ~~(1-2-93)~~(7-1-03)T

01. Notice Of Non-Compliance And Opportunity For Hearing. The vehicle owner has been given notice of non-compliance and opportunity for hearings in accordance with the ordinance of the city or county. (1-2-93)

02. Failure To Respond. The owner failed to respond to the notice of non-compliance or did not achieve favorable rulings as a result of his hearing. (1-2-93)

101. -- 199. (RESERVED).

2004 - Transportation House Pending Rule (Yellow)

IDAHO TRANSPORTATION DEPARTMENT
Revocation of Registration/Emission Ordinance

Docket No. 39-0247-0301
Temporary and Proposed Rulemaking

200. ACTION BY THE DEPARTMENT.

Upon receipt of the information in Section 100 of this rule, the Department shall prepare and mail notices of revocation of the vehicle registration to the owner. Each notice of revocation shall be effective on the same date that the letter of revocation is issued. The notice shall be mailed by ~~certified mail, return receipt requested. Undeliverable notices shall be returned to the county air quality agency for research and identification of current addresses~~ first class mail. ~~(7-1-03)~~(7-1-03)T

2004 - Transportation House Pending Rule (Yellow)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE VEHICLES AND/OR LOADS

DOCKET NO. 39-0316-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, pages 74 through 76.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Port of Entry Manager, 334-8694.

DATED this 30th day of July, 2003.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39, TITLE 03, CHAPTER 16

RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE VEHICLES AND/OR LOADS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 74 through 76.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Transportation House Pending Rule (Yellow)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE VEHICLES AND/OR LOADS

DOCKET NO. 39-0316-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

House Bill 138, 2003 Legislative Session, has amended Section 49-1010, Idaho Code, allowing trailers used in the transport of implements of husbandry to be exempt from over-width permitting requirements. This change is effective July 1, 2003. IDAPA 39.03.16 is being amended to comply with those changes with the same effective date.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with amendments to governing law.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this change is necessary to bring the rule into compliance with Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Frew, Port of Entry Manager, at 334-8694.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003

DATED this 21st day of May, 2003.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

2004 - Transportation House Pending Rule (Yellow)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0316-0301

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter.

(7-1-03)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General".

(7-1-03)T

004. INCORPORATION BY REFERENCE

There are no documents incorporated by reference in this chapter.

(7-1-03)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street And Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W State Street with a mailing address of PO Box 7129, Boise ID 83707-1129.

(7-1-03)T

02. Office Hours. Daily office hours are 7 a.m. to 5 p.m. except Saturday, Sunday and state holidays.

(7-1-03)T

03. Telephone And Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419.

(7-1-03)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code.

(7-1-03)T

007. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

300. OVERWIDTH HAULING VEHICLES, RESTRICTIONS.

01. Width Of Hauling Equipment. Overlegal permits may be issued for nine (9) foot wide trailers hauling non-reducible loads smaller than nine (9) feet wide. Overlegal permits shall not be issued for trailers over nine (9) feet wide hauling any load on an overwidth vehicle unless such vehicle has been designed and constructed for the specific purpose of hauling a particular load the nature of which makes it ~~impossible~~ impractical to be hauled on a legal width vehicle. ~~Overwidth hauling equipment shall not exceed ten (10) feet in width.~~ The permit issued for oversize loads being hauled on oversize equipment will be valid for the unladen movement or an incidental haul, which shall not include commodities either to or from the point of loading or unloading of the oversize load. The permittee is required to carry proof that the unladen movement or incidental haul is on the way to or from the point of loading or unloading of the oversize load.

(4-5-00)(7-1-03)T

02. Load Dimensions. Any load exceeding the dimensions of the trailer shall be non-reducible in size, and any load exceeding legal allowable weight shall be non-reducible in weight. Annual permits issued for such ten (10) foot hauling vehicles shall be subject to the requirements and limitations of IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," and 39.03.13, "Rules Governing Overweight Permits," Section 200.

(4-5-00)

03. Hauling Equipment In Excess Of Ten Feet. Special overwidth hauling vehicles exceeding ten (10) feet in width will be permitted, and may be required, in the hauling of excessively heavy loads to improve the lateral distribution of weight, or when a combination of weight, width, or height makes extra width in the hauling

2004 - Transportation House Pending Rule (Yellow)

IDAHO TRANSPORTATION DEPARTMENT Oversize Permits For Non-Reducible Vehicles/Loads

Docket No. 39-0316-0301
Temporary and Proposed Rulemaking

vehicle desirable in the public interest. The use of such vehicles more than ten (10) feet in width shall be restricted to loads requiring an overwidth hauling vehicle and the backhaul permit shall be for the unladen vehicle. (10-2-89)

04. Buildings. Buildings which are too wide to be safely transported on legal-width hauling vehicles shall be moved either on house moving dollies or on trailers which can be reduced to legal width for unladen travel. (10-2-89)

301. -- 399. (RESERVED).

400. OVERWIDTH PERMITS FOR IMPLEMENTS OF HUSBANDRY.

01. Farm Tractors On Interstate Highways. Farm tractors transported on Interstate Highways are required to have overlegal permit authority if width exceeds nine (9) feet. A farm tractor when attached to an implement of husbandry or when drawing an implement of husbandry shall be construed to be an implement of husbandry and is not required to have a permit. Farmers, equipment dealers or custom operators may be issued single trip or annual permits under this rule for transportation of farm tractors, having a width in excess of nine (9) feet to or from a farm involving Interstate Highway travel. The transportation of farm tractors or implements of husbandry for hire, or not being transported from one farm operation to another, is a common-carrier operation. Exemptions from legal width limitation do not apply to common-carrier operations. Farm tractors or implements of husbandry hauled for hire, or used in the furtherance of a business (not to include farming operations), are subject to the same overlegal permit regulations as other oversize loads when the width of the load exceeds legal-width limitations, and must operate under oversize permits. (3-30-01)

02. Other Than Farm To Farm. Implements of husbandry exceeding eight (8) feet six (6) inches in width being transported other than from one (1) farm operation to another farm operation shall require overlegal permit authority. (4-5-00)

03. Farm Permits. Single trip permits must be ordered at the permit office and the operator may post a security bond to establish credit (See IDAPA 39.03.21, "Rules Governing Special Permit Fees," Section 300) and thereby qualify to complete an application form, call the overlegal permit office for a permit number, and carry the application form with the overwidth vehicle in lieu of the overlegal permit form. Under provisions of IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," Section 100, annual permits will be issued to towing units or to self-propelled farm tractors or towed units, or blanket permits may be issued to an Idaho domicile applicant without vehicle identification. Such blanket permits may be transferred from one vehicle to another vehicle but shall be valid only when the permit is with the overwidth vehicle and/or load. A photocopy of the permit is valid provided that the Pilot/Escort Vehicle and Travel Time Requirements Map and Vertical Clearance of Structures Map furnished by the Idaho Transportation Department are included. Such annual permits for implements of husbandry or farm tractors are subject to the same maximum dimensions, travel time exclusions and safety requirements as other overwidth annual permits and are valid for continuous travel for twelve (12) consecutive months. (4-5-00)

04. Overwidth Farm Trailers. Trailers or semi-trailers exceeding eight feet six inches (8' 6") wide, but not wider than the implement of husbandry, used for the transportation of implements of husbandry from a farm to a farm for agricultural operations, shall be exempt from overlegal permitting requirements. This exemption does not apply to trailers or semi-trailers used in common carrier operations, hauling for hire or used in the furtherance of a business (not to include farming operations). (7-1-03)T

a. Exempt trailers, as listed above, may not be used to haul implements of husbandry that are narrower than the overwidth trailer. (7-1-03)T

b. Empty trailers, as listed above, being used to pick up or drop off an implement of husbandry from a farm to a farm are also exempt and must be reduced to a practical minimum dimension (i.e. dropping side extensions). (7-1-03)T

c. Exempt trailers, as listed above, may not be used to transport loads other than implements of husbandry from a farm to a farm. (7-1-03)T

2004 - Transportation House Pending Rule (Yellow)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312, 49-1004, and 49-1010, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The purpose of this rulemaking is to bring this rule into compliance with HB395 and SB1053, both effective July 1, 2003. No public comments were received.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 6, 2003 Idaho Administrative Bulletin, Volume 03-8, pages 115 through 119.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Port of Entry Manager, 334-8694.

DATED this 1st day of October, 2003.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

IDAPA 39, TITLE 03, CHAPTER 22

RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, pages 115 through 119.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Transportation House Pending Rule (Yellow)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 40-312, 49-1004, and 49-1010, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: To comply with HB395 and SB1053, 2003 Legislative Session, this rule change increases the maximum vehicle length of 105 feet overall to 115 feet, clarifies that all permitted Longer Combination Vehicles (LCV's) (except triples combinations) are required to have the off-track form completed as part of the permitting requirements, and clarifies the operating and reporting requirements for those vehicles participating in the pilot project. There are also technical corrections to sections 002-006 to meet formatting requirements of the Office of Administrative Rules.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reason: Compliance with HB395 and SB1053 from the 2003 Legislative Session, both effective July 1, 2003. SB1053 allows Longer Combination Vehicles (LCV's) up to a maximum overall length of 115 feet. HB395 created a pilot project for qualifying LCV's to operate at weights above 105,500 pounds up to 129,000 pounds on non-interstate highways.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is necessary to comply with changes to Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Frew, Port of Entry Manager, 334-8694.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2003.

DATED this first day of July, 2003.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone - 208-334-8810
FAX - 208-334-8195

2004 - Transportation House Pending Rule (Yellow)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0322-0301

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter.

(7-1-03)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General".

(7-1-03)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter.

(7-1-03)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street And Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W State Street with a mailing address of PO Box 7129, Boise ID 83707-1129.

(7-1-03)T

02. Office Hours. Daily office hours are 7 a.m. to 5 p.m. except Saturday, Sunday and state holidays.

(7-1-03)T

03. Telephone And Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419.

(7-1-03)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code.

(7-1-03)T

007. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

200. CONDITIONS AND REQUIREMENTS FOR EXTRA-LENGTH.

Extra-length vehicle combinations shall be subject to the following conditions, limitations, and requirements:

(10-2-89)

01. Extra-Length Vehicle Combinations. Vehicle combinations operating with an overall length in excess of the limits imposed in Section 49-1010, Idaho Code, shall consist of not more than four (4) units, shall not exceed one hundred ~~five~~ fifteen (10~~1~~5) feet overall and no such vehicle combination shall include more than three (3) cargo units except that a full truck and full trailer may have an overall length in excess of seventy-five (75) feet but not in excess of eighty-five (85) feet including load overhang.

(~~12-26-90~~)(7-1-03)T

02. Routes For Extra-length Operations. Shall be designated in four (4) categories:

(9-4-91)

a. Routes for combinations not exceeding ninety (90) feet in overall length including load overhang (blue-coded routes). An extra-length combination operating on routes designated for ninety (90) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed by the equation developed by Western Highway Institute (WHI) for computation of maximum vehicular off-track.

(3-22-00)

b. Routes for combinations of vehicles not exceeding one hundred ~~five~~ fifteen (10~~1~~5) feet in overall length including load overhang (red-coded routes). An extra-length combination operating on routes designated for

2004 - Transportation House Pending Rule (Yellow)

IDAHO TRANSPORTATION DEPARTMENT

Overlegal Permits for Extra-Length Vehicle Combinations

Docket No. 39-0322-0301

Temporary and Proposed Rulemaking

one hundred ~~five~~ fifteen (1015) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation referred to above. ~~(3-22-00)~~(7-1-03)T

c. Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). An extra-length combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy-five (8.75) feet when computed by the WHI equation referred to above. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seventy-five (8.75) feet off-tracking. (3-22-00)

d. Selected state highway routes (green coded routes) for operation of an extra-length combination whereby its maximum off-tracking will not exceed three (3) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation and its overall length including load overhang does not exceed eighty-five (85) feet. Route approval shall be subject to analysis of pavement condition, bridge capacity, safety considerations, pavement width, curvature, traffic volumes and traffic operations. (8-25-94)

03. Power Unit. The power unit of extra-length combinations shall have adequate power and traction to maintain a minimum of fifteen (15) miles per hour under normal operating conditions on any up-grade over which the combination is operated. (10-2-89)

04. Connecting Devices. Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393, which shall be considered to be a part of this rule. (10-2-89)

05. Weather Restrictions. Extreme caution in the operation of an extra length vehicle combination shall be exercised when hazardous conditions such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke adversely affect visibility or traction. Speed shall be reduced when such conditions exist. When conditions become sufficiently dangerous, the company or the operator shall discontinue operations and operations shall not be resumed until the extra length vehicle combination can be safely operated. The state may restrict or prohibit operations during periods when in the state's judgment traffic, weather, or other safety conditions make such operations unsafe or inadvisable. (8-25-94)

06. Trailer Weight Sequence. In any extra-length combination, the respective loading of any trailer shall not be substantially greater than the weight of any trailer located ahead of it in the vehicle combination. (Substantially greater shall be defined as more than four thousand (4,000) pounds heavier.) (10-2-89)

07. Operating Restrictions. Operators of all vehicle combinations governed by this rule shall comply with the following operating restrictions: (8-25-94)

a. A minimum distance of five hundred (500) feet shall be maintained between combinations of vehicles except when overtaking and passing. (10-2-89)

b. Except when passing another vehicle traveling in the same direction, the combination shall be driven so as to remain at all times on the right hand side of the centerline of a two (2) lane, two (2) way highway, or on the right hand side of a lane stripe or marker of a highway of four (4) or more lanes. (1-1-90)

c. Be in compliance with all Federal Motor Carrier Safety Regulations. (3-22-00)

08. Insurance Requirements. Every combination operated under this rule shall be covered by insurance of not less than five hundred thousand dollars (\$500,000) combined single limit. The permittee or driver of the permitted vehicle combination shall carry in the vehicle evidence of insurance written by an authorized insurer to certify that insurance in this minimum amount is currently in force. (8-25-94)

09. Tire Limitations. All axles on extra-length vehicle combinations shall be equipped with four (4)

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tires except on the steering axle and on axles which are in tandem axle groups or other multiple axle groups.

(8-25-94)

201. -- 299. (RESERVED).

300. OVERLEGAL PERMITS FOR EXTRA-LENGTH OPERATIONS.

01. Permit Attachments. All vehicles in extra-length operation shall be allowed to travel under the authority of overlegal permits issued to the power unit. A copy of this rule shall accompany and shall be a part of all annual extra-length permits. An allowable gross loads table shall accompany and be referred to on the face of the permit. Extra-length operations shall be valid only on routes of the state highway system designated for such purposes as set forth on the extra length color coded map of designated routes which shall accompany the permit, and is available at the overlegal permit office, ports of entry, and highway district offices. Combination extra-length and excess weight permits are available. (3-22-00)

02. Permit Requirements And Special Requirements. Permits issued for operations of extra-length combinations shall be subject to the general requirements of Section 200, Conditions and Requirements For Extra-Length, and to the following special conditions. (8-25-94)

a. The operator of any extra-length combination ~~which has an internal dimension between points of articulation of thirty (30) feet or more, or of any doubles combination which has an overall length of ninety (90) feet or more, or a combination which is authorized by Subsection 200.02.d., of this rule to operate on selected state highways, (except triples combinations)~~ shall complete the Off-Track Computation Form to provide internal dimensions of the combination and computation of off-track as evidence of compliance with maximum off-track requirements specified for the designated route being traveled. The completed Off-Track Computation Form, when required, shall be available for inspection by enforcement officers with the permit for the extra-length vehicle combination. When the off-track computation form is required, permit shall be invalid until the form is completed and available for inspection. ~~(8-25-94)~~ (7-1-03)T

b. Extra-length permits shall become automatically invalid subject to conditions cited in IDAPA 39.03.23, "Rules Governing Revocation of Special Permits". (3-22-00)

03. Exceeding Allowed Length And/Or Off-Track Limitations. Extra-length vehicle combinations apprehended for exceeding allowed length and/or off-track limitations as set forth in this rule shall be subject to the following course of action: (8-25-94)

a. The vehicle combination will be escorted by the apprehending officer to the first safe parking location; and (8-25-94)

b. The driver of the extra length vehicle combination will be issued a single trip, one (1) day permit via a specified route to the nearest permitted route. The condition of this permit shall require an advance pilot/escort vehicle to escort the extra-length vehicle combination, and the pilot/escort vehicle shall meet the pilot/escort vehicle requirements as set forth in IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits". (3-22-00)

301. -- 399. (RESERVED).

400. PILOT PROJECT TO EXCEED ONE HUNDRED FIVE THOUSAND, FIVE HUNDRED POUNDS UP TO ONE HUNDRED TWENTY-NINE THOUSAND POUNDS.

In addition to the previously stated requirements that must be met, vehicles operating at weights in excess of one hundred five thousand five hundred (105,500) pounds, must also meet the following requirements: (3-22-00)

01. Brakes. All axles must be equipped with brakes. (3-22-00)

02. Permits. Permits will be vehicle specific and will list the axle spacings, number of axles and the gross weight. The state issued permit must be displayed in the lower right hand corner of the windshield. ~~(3-22-00)~~ (7-1-03)T

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03. Trip Logs. Trip logs will be required to be submitted quarterly in a standard format and submitted electronically with the following information: ~~(3-22-00)~~(7-1-03)T

- a. Each trip must be listed (a trip is defined as each way unladen or laden); (3-22-00)
- b. Date trip occurred; (3-22-00)
- c. Origin; (3-22-00)
- d. Destination; (3-22-00)
- e. Route (list each highway traveled); ~~and~~ ~~(3-22-00)~~(7-1-03)T
- f. Gross weight of vehicle configuration (unladen or laden)-; and ~~(3-22-00)~~(7-1-03)T
- g. Unit number. (7-1-03)T

04. Failure To Comply. The motor carrier's failure to submit trip logs quarterly, as required by Subsection 400.03, will invalidate your permit result in the revocation of all pilot project permits issued to the carrier. Upon submission of all delinquent trip logs, new permits may be issued. ~~(3-22-00)~~(7-1-03)T

401. -- 999. (RESERVED).

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IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.41 - RULES GOVERNING TRAFFIC CONTROL DEVICES

DOCKET NO. 39-0341-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-313, 49-201(3), and 67-5203A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, pages 192 through 198.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lance Johnson, Traffic Engineer, 334-8557.

DATED this 17th day of June, 2003.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39, TITLE 03, CHAPTER 41

RULES GOVERNING TRAFFIC CONTROL DEVICES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 191 through 198.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.41 - RULES GOVERNING TRAFFIC CONTROL DEVICES

DOCKET NO. 39-0341-0201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 17, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 40-313, 49-201(3) and 67-5203A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 18, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking updates the incorporation by reference, adopting the most recent publication of the MUTCD, including Revision Number 1, dated December 28, 2001, and identifies 19 specific exceptions. The exceptions are necessary to bring the MUTCD in line with Idaho Code, correct errors and accommodate the operations of the Department and local transportation agencies. The exceptions have been approved by the FHWA and Local Highway Technical Assistance Council.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Adoption of a manual and specifications for a uniform system of traffic-control devices that conforms to the MUTCD is stipulated in Section 49-201(3), Idaho Code. Adoption of the 2000 MUTCD by January 17, 2003 is an FHWA requirement.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose or increase any fee or charge.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because adoption of a manual and specifications for a uniform system of traffic-control devices that conforms to the MUTCD is stipulated in Section 49-201(3), Idaho Code and adoption of the 2000 MUTCD by January 17, 2003 is an FHWA requirement.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Lance Johnson, Traffic Engineer, 208-334-8557.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before December 26, 2002.

DATED this 22nd day of October, 2002.

Linda L. Emry, Management Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-334-8195

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0341-0201

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.03.41, "Rules Governing Traffic Control Devices," IDAPA 39, Title 03, Chapter 41. (3-30-01)

02. Scope. It is the purpose of this rule to establish ~~guidelines~~ standards, options, guidance and supporting information for the design, construction and implementation of traffic control devices. (~~3-30-01~~)(1-17-03)T

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

The "Manual on Uniform Traffic Control Devices for Streets and Highways" is published by the Federal Highway Administration of the U.S. Department of Transportation. The ~~1988~~ Millennium edition of the Manual and all subsequent amendments, through and including revision number ~~seven (7)~~ one dated ~~January 3, 2000~~ December 28, 2001, are hereby incorporated by reference and made a part of the Rules of the Idaho Transportation Department. The following exceptions to the Manual are adopted by the Idaho Transportation Board: (~~3-30-01~~)(1-17-03)T

01. ~~Section 2A-23, Height.~~ *In the second paragraph revise the fourth sentence as follows: All route markers and warning and regulatory signs on expressways shall be at least six (6) feet above the level of the pavement edge, except "Wrong Way" and "Do Not Enter" signs on interchange ramps which shall be at least four (4) feet above the level of the pavement edge.* (5-16-90)

02. ~~Section 2F-16, Vertical Clearance.~~ *In the second paragraph revise the second sentence as follows: Notwithstanding the above, all regulatory and warning signs and route markers shall be at least six (6) feet above the level of the pavement edge, except "Wrong Way" and "Do Not Enter" signs on interchange ramps which shall be at least four (4) feet above the level of the pavement edge.* (5-16-90)

03. ~~Section 4B-5, Meaning Of Signal Indications.~~ *In paragraph 3C, substitute the following for the first sentence: Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right, or to turn left from a one (1) way or two (2) way street into a one (1) way street, after stopping as required by Subsections 001.01 and 001.02 above.* (5-16-90)

04. ~~Section 7D-5, Meaning Of Signal Indications.~~ *On page 7D-3, under the heading, The Steady Circular Red or Red Arrow, shall have the following meanings: In paragraph three (3), substitute the following for the first sentence: Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right, or to turn left from a one (1) way or two (2) way street into a one (1) way street, after stopping as required by Subsections 001.01 and 001.02 above.* (10-1-94)

05. ~~Section 6F-6b, Interim Markings.~~ *Delete the first sentence under Item 1 and substitute the following two (2) sentences in its place: For federal aid funded projects, all short term broken line pavement markings shall use the same cycle length as permanent markings and be at least four (4) feet long, except that, half cycle lengths with a minimum of two (2) foot stripes may be used for roadways with severe curvature. For state funded construction and maintenance work, all short term broken line pavement markings shall use the same cycle length as permanent markings and be at least one (1) foot long, except that, half cycle lengths with one (1) foot stripes may be used for roadways with severe curvature.* (10-1-94)

06. ~~Section 8B-9, Stop Signs At Grade Crossings (R1-1, W3-1).~~ *Delete the first two (2) paragraphs and substitute the following: Under Idaho law, wherever a highway crosses one (1) or more railroads at grade, the*

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~~Department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the Department or local authorities, the existence of stop signs at a given crossing would constitute a greater hazard than their absence.~~ (12-26-90)

071. Section 2H-804, ~~Color-Format~~ General Design Requirements For Recreational And Cultural Interest Area Symbol Signs. On page 2H-2, ~~Modify~~ the first sentence to read as follows: Recreational and cultural interest area symbol signs ~~and general guide signs erected in these areas~~ shall be square or rectangular in shape and ~~shall~~ have a white symbol or legend and white border on a brown background, with the exception of Scenic Byway signs which shall be allowed to use a multi-colored format. (3-30-01)(1-17-03)T

02. Section 1A.11, Relation To Other Documents. On page 1A-10, in the first paragraph under Standard, delete the last referenced publication, "Standard Highway Signs, 1979 Edition (FHWA)". At the end of the paragraph add the following sentence: "The latest edition of the 2002 Idaho Transportation Department (ITD) Sign Chart shall be a part of this Manual as a reference for all sign number designations and any additional special signs if used on a highway under the jurisdiction of the Idaho Transportation Department. Add the following as the first sentence under Support, "The "Standard Highway Signs, 2002 Edition (FHWA)" as referenced in this Manual shall be adopted as a supporting document." (1-17-03)T

03. Section 2C.05, Placement Of Warning Signs. On pages 2C-6 and 2C-7, the attached tables shall be adopted to replace Table 2C-4, "Guidelines for Advance Placement of Warning Signs". (1-17-03)T

04. Section 2C.27, CROSS TRAFFIC DOES NOT STOP Plaque (W4-4P). On page 2C-23, delete the third paragraph titled "Guidance" in its entirety. Replace the fourth paragraph titled "Option" with the following: "The CROSS TRAFFIC DOES NOT STOP (W4-4P) plaque (see page 2C-924) may be used in combination with a STOP sign when engineering judgment indicates that drivers frequently misinterpret the intersection as a multi-way stop condition." Replace the fifth paragraph titled "Standard" with the following: "If the W4-4P plaque is used, it shall be installed below the STOP sign." On page 2C-24, revise plaque W4-4P to delete the arrow and use text only. (1-17-03)T

05. Section 2D.15, Cardinal Direction Auxiliary Signs (M3-1 through M3-4). On page 2D-12, change the first sentence under Standard to read as follows: "To improve the readability, the first letter of the cardinal direction words shall be ten percent larger, rounded up to the nearest whole number size, except for those sign installations that were in existence prior to the adoption of this rule." (1-17-03)T

06. Section 2E.28, Interchange Exit Numbering. On page 2E-36, in the fourth sentence under Standard, revise the sentence to read as follows: "The standard exit number plaque shall include the word EXIT, the appropriate exit number, and the suffix letter A or B (on multi-exit interchanges) in a single-line format on a plaque 750 mm (30 in) in height, except for those sign installations that were in existence prior to the adoption of this rule." (1-17-03)T

07. Section 2E.37, Interchange Sequence Signs. On page 2E-55, revise the last Standard to an Option to read as follows: "Interchange Sequence signs located in the median may be installed at overhead sign height". (1-17-03)T

08. FHWA Compliance Dates, Pavement Markings. Revise the FHWA compliance dates for the additional roadways to be striped under the new minimum criteria from January 3, 2003 to January 3, 2005. (1-17-03)T

09. Section 4D.04, Meaning Of Vehicular Signal Indications. On page 4D-5, in the second paragraph of Item C.1, substitute the following for the first sentence: "Except when a sign is in place prohibiting a turn on red or a RED ARROW signal indication is displayed, vehicular traffic facing a CIRCULAR RED signal indication may cautiously enter the intersection to turn right, or to turn left from a one (1) way or two (2) way street into a one (1) way street, after stopping in conformance with the provisions of the Idaho Vehicle Code." (1-17-03)T

10. Section 4K.03, Warning Beacon. On page 4K-3, in the second paragraph under Standard, revise

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the second sentence to read as follows: “The beacon shall not be included within the border of the sign.” (1-17-03)T

11. Section 7B.11, School Speed Limit Assembly (S4-1, S4-2, S4-3, S4-4, S5-1). On page 7B-8, in the last paragraph under Option, revise the second sentence to read as follows: “The lenses of the Speed Limit Sign Beacon shall not be positioned within the face of the School Speed Limit (S5-1) sign.” (1-17-03)T

12. Section 8B.07, STOP Or YIELD Signs At Highway-Rail Grade Crossings. On page 8B-7, delete the first five paragraphs titled as “Option, Support and Guidance Statements,” retaining the Standard for Stop Ahead or Yield Ahead Advance Warning signs and substitute the following: “Standard: Under Idaho law, wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the Department or local authorities, the existence of stop signs at a given crossing would constitute a greater hazard than their absence.” (1-17-03)T

13. Section 8B.18, Dynamic Envelope Delineation. On page 8B-15, revise Standard to read as follows: “If used, the dynamic envelope shall be contrasting pavement color and/or contrasting pavement texture.” And, on page 8B-15, revise Guidance to read as follows: “If used, dynamic envelope contrasting pavement color and/or texture should be placed for a distance of 1.8 m (6 ft) from the nearest rail, installed parallel to the tracks, unless the operating railroad company advises otherwise.” (1-17-03)T

14. Figure 8B-4, Typical Train Dynamic Envelope Delineation Pavement Markings. On page 8B-16, delete Figure in it’s entirety. (1-17-03)T

15. Section 8D.07, Traffic Control Signals At Or Near Highway-Rail Grade Crossings. On page 8D-11, in the first full paragraph titled Standard, add text “if justified by an engineering study”, to the end of the final sentence in the paragraph. (1-17-03)T

16. Section 10C.03, STOP Or YIELD Signs (R1-1, R1-2, W3-1a, W3-2a). On page 10C-1 and 10C-2, delete the five (5) paragraphs titled as “Standard, Guidance, and Option Statements”, retaining the Standard for Stop Ahead or Yield Ahead Advance Warning signs and substituting the following: “Standard: Under Idaho law, wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the Department or local authorities, the existence of stop signs at a given crossing would constitute a greater hazard than their absence.” (1-17-03)T

17. Section 10C.15 Dynamic Envelope Delineation Markings. (1-17-03)T

a. Page 10C-9. On page 10C-9, delete the word “markings” in the title and, under Support, delete the word “markings”. (1-17-03)T

b. Page 10C-11. On page 10C-11, under Option, revise the sentence to read as follows: “The dynamic envelope may be delineated on the pavement using contrasting pavement color and/or contrasting pavement texture (see Figures 10C-1 and Figure 10C-4).” (1-17-03)T

i. On page 10C-11, delete “Standard, relating to pavement markings in its entirety”. (1-17-03)T

ii. On page 10C-11, revise Guidance, to read as follows: “If used at the light-rail transit crossing, dynamic envelope contrasting pavement color and/or texture should be placed at a distance of 1.8 m (6 ft) from the nearest rail, installed parallel to the tracks, unless the transit authority and/or operating railroad company advises otherwise.” (1-17-03)T

iii. On page 10C-11, delete the fourth paragraph under the second Option. (1-17-03)T

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18. Figure 10C-2, Typical Light Rail Transit Vehicle Dynamic Envelope Delineation Pavement Markings. On page 10C-10, delete Figure 10C-2 in it's entirety. (1-17-03)T

19. Section 10D.06, Traffic Signal Preemption Turning Restrictions. On page 10D-6, under the third paragraph titled Guidance: add text "if justified by an engineering study," to the end of the final sentence in the paragraph.

Table 2C-4. Guidelines for Advance Placement of Warning Signs (English Units) ¹									
Posted or 85 th Percentile Speed (mph)	Condition A: High judgement required ²	Condition B: Deceleration to the listed advisory Speed (mph) for the condition ⁴							
		0 ³	10	20	30	40	50	60	70
20	225 ft	N/A ⁵	N/A ⁵						
25	325 ft	N/A ⁵	N/A ⁵	N/A ⁵					
30	450 ft	N/A ⁵	N/A ⁵	N/A ⁵					
35	550 ft	N/A ⁵	N/A ⁵	N/A ⁵	N/A ⁵				
40	650 ft	125 ft	N/A ⁵	N/A ⁵	N/A ⁵				
45	750 ft	175 ft	125 ft	N/A ⁵	N/A ⁵	N/A ⁵			
50	850 ft	250 ft	200 ft	150 ft	100 ft	N/A ⁵			
55	950 ft	300 ft	275 ft	225 ft	175 ft	100 ft	N/A ⁵		
60	1100 ft	400 ft	350 ft	300 ft	250 ft	175 ft	N/A ⁵		
65	1200 ft	475 ft	425 ft	400 ft	350 ft	275 ft	175 ft	N/A ⁵	
70	1250 ft	550 ft	525 ft	500 ft	425 ft	350 ft	250 ft	150 ft	N/A ⁵
75	1350 ft	650 ft	625 ft	600 ft	525 ft	450 ft	350 ft	250 ft	100 ft

Notes:

1. The standard distance calculations in the above chart are based on a sign legibility distance of 175 feet for Condition A which is the appropriate legibility distance for a 5 inch, Series D word legend. The distances for Condition B are based on a sign legibility distance of 250 feet which is appropriate for an alignment warning symbol sign.

2. Typical conditions are locations where the road user must use extra time to adjust speed and change lanes in heavy traffic because of a complex driving situation. This may be for a multi-lane facility with vehicle weaving and lane change requirements using several of the traffic flow warning signs such as Merge and Lane Ends that requires the application of Driver Decision Sight Distance. The distances are determined by providing the driver a PIEV time of 14.0 to 14.5 seconds for the vehicle maneuvers (2000 AASHTO Policy, Exhibit 3-3, Decision Sight Distance, Avoidance Maneuver E) minus the legibility distance of 175 feet for the appropriate sign.

3. Typical condition is the warning of a potential stop situation. Typical signs are Stop Ahead, Yield head, Signal Ahead, and Intersection Advance Warning signs. The distances are based on the 2000 AASHTO Policy, Stopping Sight Distance, Exhibit 3-1, providing a PIEV time of 2.5 seconds, a deceleration rate of 11.2 ft/sec² minus the sign legibility distance of 175 feet.

4. Typical conditions are locations where the road user must decrease speed to maneuver through the warned condition. Typical signs are Turn, Curve, Reverse Turn or Curve. The distance is determined by providing a 2.5 second PIEV time, a vehicle deceleration rate of 10 ft/sec² minus the sign legibility distance of 250 feet.

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5. No suggested minimum distances are provided for these speeds, as the placement location is dependent on site conditions and other signing to provide an adequate advance warning for the driver. The values have been rounded to uniform distances.

Table 2C-4. Guidelines for Advance Placement of Warning Signs (Metric Units)¹														
Posted or 85 th Percentile Speed (km/h)	Condition A: High judgement required ²	Condition B: Deceleration to the listed advisory Speed (km/h) for the condition ⁴												
		0 ³	10	20	30	40	50	60	70	80	90	100	110	120
30 km/h	60 m	N/A ⁵												
40 km/h	100 m	N/A ⁵												
50 km/h	150 m	N/A ⁵												
60 km/h	180 m	30 m	N/A ⁵	N/A ⁵	N/A ⁵									
70 km/h	220 m	50 m	40 m	30 m	N/A ⁵	N/A ⁵	N/A ⁵							
80 km/h	260 m	80 m	60 m	55 m	50 m	40 m	30 m	N/A ⁵						
90 km/h	310 m	110 m	90 m	80 m	70 m	60 m	40 m	N/A ⁵	N/A ⁵					
100 km/h	350 m	130 m	120 m	115 m	110 m	100 m	90 m	70 m	60 m	40 m	N/A ⁵			
110 km/h	380 m	170 m	160 m	150 m	140 m	130 m	120 m	110 m	90 m	70 m	50 m	N/A ⁵		
120 km/h	420 m	200 m	190 m	185 m	180 m	170 m	160 m	140 m	130 m	110 m	90 m	60 m	40 m	
130 km/h	460 m	230 m	230 m	225 m	220 m	210 m	200 m	180 m	170 m	150 m	120 m	100 m	70 m	50 m

Notes:

1. The standard distance calculations in the above chart are based on a sign legibility distance of 50 m for Condition A which is the appropriate legibility distance for a 125 mm, Series D word legend. The distances for Condition B are based on a sign legibility distance of 75 m which is appropriate for an alignment warning symbol sign.

2. Typical conditions are locations where the road user must use extra time to adjust speed and change lanes in heavy traffic because of a complex driving situation. This may be for a multi-lane facility with vehicle weaving and lane change requirements using several of the traffic flow warning signs such as Merge and Lane Ends that requires the application of Driver Decision Sight Distance. The distances are determined by providing the driver a PIEV time of 14.0 to 14.5 seconds for the vehicle maneuvers (2000 AASHTO Policy, Exhibit 3-3, Decision Sight Distance, Avoidance Maneuver E) minus the legibility distance of 50 m for the appropriate sign.

3. Typical condition is the warning of a potential stop situation. Typical signs are Stop Ahead, Yield Ahead, Signal Ahead, and Intersection Advance Warning signs. The distances are based on the 2000 AASHTO Policy, Stopping Sight Distance, Exhibit 3-1, providing a PIEV time of 2.5 seconds, a deceleration rate of 3.4 m/sec² minus the sign legibility distance of 50 m.

4. Typical conditions are locations where the road user must decrease speed to maneuver through the warned condition. Typical signs are Turn, Curve, Reverse Turn or Curve. The distance is determined by providing a 2.5 second PIEV time, a vehicle deceleration rate of 3.0 m/sec² minus the sign legibility distance of 75 m.

5. No suggested minimum distances are provided for these speeds, as the placement location is dependent on

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site conditions and other signing to provide an adequate advance warning for the driver. The values have been rounded to uniform distances.

(1-17-03)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P.O. Box 7129, Boise ID 83707-1129.

(1-17-03)T

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays.

(1-17-03)T

03. Telephone And FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858.

(1-17-03)T

04. Idaho Transportation Department District Offices. Offices are at the following locations:

(1-17-03)T

a. Idaho Transportation Department District 1
605 Prairie, Coeur d'Alene
Mailing address - P.O. Box D, Coeur d'Alene, Idaho 83814
Office Hours - 7 a.m. to 4 p.m., Pacific Time Zone
Phone – (208) 772-1200

(1-17-03)T

b. Idaho Transportation Department District 2
26th and North and South Highway, Lewiston
Mailing address - P.O. Box 837, Lewiston, Idaho 83501
Office Hours - 7 a.m. to 4 p.m., Pacific Time Zone
Phone – (208) 799-5090

(1-17-03)T

c. Idaho Transportation Department District 3
8150 Chinden Blvd., Boise
Mailing address - P.O. Box 8028, Boise, Idaho 83707
Office Hours - 8 a.m. to 5 p.m., Mountain Time Zone
Phone – (208) 334-8300

(1-17-03)T

d. Idaho Transportation Department District 4
216 Date Street, Shoshone
Mailing address - P.O. Box 2-A, Shoshone, Idaho 83352
Office Hours - 8 a.m. to 5 p.m., Mountain Time Zone
Phone – (208) 886-7800

(1-17-03)T

e. Idaho Transportation Department District 5
5151 South 5th, Pocatello
Mailing address - P.O. Box 4700, Pocatello, Idaho 83201
Office Hours - 8 a.m. to 5 p.m., Mountain Time Zone
Phone – (208) 239-3367

(1-17-03)T

f. Idaho Transportation Department District 6
206 North Yellowstone, Rigby
Mailing address - P.O. Box 97, Rigby, Idaho 83442
Office Hours - 8 a.m. to 5 p.m., Mountain Time Zone
Phone – (208) 745-8735

(1-17-03)T

0056. ~~IDAHO~~ PUBLIC RECORDS ACT COMPLIANCE.

Rules contained herein are promulgated in accordance with Title 67, Chapter 52, Idaho Administrative Procedures Act (IDAPA) and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Idaho Attorney General". All

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records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. ~~(3-30-01)~~(1-17-03)T

~~0067.~~ -- 099. (RESERVED).

100. AVAILABILITY OF MANUAL.

01. Review Of Manual. Persons wishing to review the Manual ~~and subsequent amendments, through and including revision number seven (7),~~ may do so at ~~the Department's Headquarters in Boise or at a District Office of the Department in Boise, Coeur d'Alene, Lewiston, Pocatello, Rigby, or Shoshone~~ any of the locations listed in Section 005. The Manual and subsequent amendments are also available for review at the Idaho State Library.

~~(3-30-01)~~(1-17-03)T

02. Purchase Of Manual. ~~Copies of the 1988 edition of~~ The Manual and all subsequent amendments dated December 28, 2001, with Revision No. 1 changes may be viewed and printed from the Federal Highway Administration website, <http://mutcd.fhwa.dot.gov> or purchased from a number of organizations described on the website, such as the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402 ~~AASHTO, ATSSA, and ITE.~~

~~(3-30-01)~~(1-17-03)T

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IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.43 - RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY

DOCKET NO. 39-0343-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312(3) and 67-5229, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

In response to additional department input and pursuant to Section 67-5227, Idaho Code, the proposed rule is being amended. The reference to language governing administrative appeals was changed from IDAPA 39.03.42, "Rules Governing Highway Right-of-Way Encroachments on State Right-of-Way," to the document incorporated by reference. The purpose is to make that information more readily available to the applicant.

The document incorporated by reference has also been amended to reflect the appropriate language for administrative appeals. Other language has been added for clarification. Copies are available upon request. No other public comments were received.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the September 3, 2003 Idaho Administrative Bulletin, Volume 03-9, pages 227 through 230.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jonathan Lenhart, Utility/Railroad Engineer, 332-7894.

DATED this 1st day of October, 2003.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

**IDAPA 39
TITLE 03
CHAPTER 43**

RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY

2004 - Transportation House Pending Rule (Yellow)

DEPARTMENT OF TRANSPORTATION
Utilities on State Highway Right-of-Way

Docket No. 39-0343-0301
Pending Rule

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 227 through 230.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 39-0343-0301

*Language That Has Been Deleted From The Original Proposed Rule
Has Been Removed And New Language Is Shown In Italics*

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by Section 2.4 "Administrative Appeal" of the "Utility Accommodation Policy" incorporated by reference. ()

2004 - Transportation House Pending Rule (Yellow)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.43 - RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY

DOCKET NO. 39-0343-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 40-312(3) and 67-5229, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking adds new sections required by the Office of Administrative Rules and removes language that is included in the incorporated document. The document incorporated by reference has been updated. It retains the basic information but reorganizes and reformats the content in a more user-friendly style. The incorporated document was updated with input from the affected parties and has been reviewed and approved by the utility companies and FHWA. Internal procedural information was moved into a staff manual. Some guidelines were made less restrictive to provide more flexibility in issuing permits to the utility providers.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. N/A

NEGOTIATED RULEMAKING: Formal negotiated rulemaking was not conducted. However, interested parties impacted by this rule were involved in the review and update of the document incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jonathan Lenhart, Utility/Railroad Engineer, 332-7894.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

DATED this 30th day of July, 2003.

Linda L. Emry, Management Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0343-0301

2004 - Transportation House Pending Rule (Yellow)

DEPARTMENT OF TRANSPORTATION Utilities on State Highway Right-of-Way

Docket No. 39-0343-0301
Proposed Rulemaking

000. LEGAL AUTHORITY.

Under authority of Sections 40-312(3) and 67-5229, Idaho Code, the Idaho Transportation Board ~~incorporates by reference its 1990 publication titled, "A Policy for the Accommodation of Utilities within the Right of Way of the State Highway System in the state of Idaho"~~ adopts this rule. (3-19-99)()

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39, Title 03, Chapter 43, "Rules Governing Utilities On State Highway Right-of-Way". ()

02. Scope. The purpose of the policy is to regulate the location, design and methods for installing, relocating, adjusting and maintaining utilities on State highway right-of-way when such use and occupancy is legal, in the public interest and will not adversely affect the highway or its users. ~~The policy applies to new utility installations, to existing utility installations to be retained, relocated, maintained or adjusted because of highway construction or reconstruction, and to the relocation of utility facilities which are found to constitute a definite hazard to the traveling public.~~ (6-4-90)()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. ()

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of "Administrative Appeal" procedure of IDAPA 39.03.42.003, "Rules Governing Highway Right-of-Way Encroachments on State Right-of-Way". ()

004. INCORPORATION BY REFERENCE.

The Idaho Transportation Department incorporates by reference the July 2003 Edition of "Utility Accommodation Policy". This publication is available for public inspection and copying at the Office of the Utilities/Railroad Engineer at the Idaho Transportation Department central office, or the District offices, or the Idaho Transportation Department WEB site <http://www2.state.id.us/itd/index.htm>. ()

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street And Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. ()

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. ()

03. Telephone And FAX numbers. The central office may be contacted during office hours by phone at 208-332-7894 or by fax at 208-334-8025. ()

04. Idaho Transportation Department District Offices are at the following locations: ()

a. Idaho Transportation Department District 1
600 W. Prairie, Coeur d'Alene
Mailing address - P.O. Box D
Coeur d'Alene, Idaho 83814
Office Hours - 7:00 a.m. to 4:00 p.m., Pacific Time Zone
Phone - (208) 772-1200 ()

b. Idaho Transportation Department District 2
2600 North and South Highway, Lewiston
Mailing address - P.O. Box 837
Lewiston, Idaho 83501
Office Hours - 7:00 a.m. to 4:00 p.m., Pacific Time Zone
Phone - (208) 799-5090 ()

2004 - Transportation House Pending Rule (Yellow)

DEPARTMENT OF TRANSPORTATION Utilities on State Highway Right-of-Way

Docket No. 39-0343-0301
Proposed Rulemaking

- c.** Idaho Transportation Department District 3
8150 Chinden Blvd., Boise
Mailing address - P.O. Box 8028
Boise, Idaho 83707
Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone - (208) 334-8300 ()
- d.** Idaho Transportation Department District 4
216 Date Street, Shoshone
Mailing address - P.O. Box 2-A
Shoshone, Idaho 83352
Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone - (208) 886-7800 ()
- e.** Idaho Transportation Department District 5
5151 South 5th, Pocatello
Mailing address - P.O. Box 4700
Pocatello, Idaho 83201
Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone - (208) 239-3300 ()
- f.** Idaho Transportation Department District 6
206 North Yellowstone, Rigby
Mailing address - P.O. Box 97
Rigby, Idaho 83442
Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone - (208) 745-7781 ()

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. ()

~~002.—099. (RESERVED).~~

100. GENERAL.

~~01. **Policy.** "A Policy for the Accommodation of Utilities within the Right of Way of the State Highway System in the State of Idaho," as adopted by the Idaho Transportation Board on January 19, 1990, is hereby adopted and incorporated by reference as the official policy for governing the occupancy of state highway right-of-way by utility facilities. Copies of the policy may be obtained from the Department's Headquarters Office in Boise or from a District Office in Coeur d'Alene, Lewiston, Boise, Shoshone, Pocatello or Rigby. (3-19-99)~~

~~02. **Application Of Policy.** The policy applies to new utility installations, to existing utility installations to be retained, relocated, maintained or adjusted because of highway construction or reconstruction, and to the relocation of utility facilities which are found to constitute a definite hazard to the traveling public. (6-4-90)~~

~~03. **Hearing Requirements.** The Idaho Transportation Board is authorized to order relocation of utilities after notice and opportunity for a hearing. When required, the Department will: (3-19-99)~~

~~a. Request utility hearings; (3-19-99)~~

~~b. Present the Department's viewpoint at such hearings; and (3-19-99)~~

~~c. Issue orders to proceed with utility relocations. (3-19-99)~~

~~04. **Relocation Cost.** Relocation costs will be determined as follows: (6-4-90)~~

~~a. Where the utility company has a right of occupancy for its facilities by reason of holding the fee, an easement or other property interest, the cost of relocation will normally be borne by the Department. (6-4-90)~~

2004 - Transportation House Pending Rule (Yellow)

DEPARTMENT OF TRANSPORTATION Utilities on State Highway Right-of-Way

Docket No. 39-0343-0301
Proposed Rulemaking

~~b. Where the utility facility occupies a public highway right-of-way, or land acquired for highway right-of-way, through sufferance or by actual encroachment, the cost of relocation will normally be borne by the utility company. (6-4-90)~~

~~c. Where there is a combination of the above conditions, the cost of relocation will be pro-rated between the Department and the utility company. (6-4-90)~~

~~d. In computing the cost of relocation at Department expense, credits shall be allowed for betterments, salvaged materials and expired service life. (6-4-90)~~

~~05. **Agreements.** An agreement shall be entered into between the Department and the utility company when the cost of utility adjustments and relocations are at Department expense. (6-4-90)~~

~~06. **Permit Requirements.** New utility installations which are to occupy existing highway right-of-way shall require a written permit from the Department. All utility facilities, whether new, relocated or existing, which are located within the right-of-way of a highway construction project shall require a written permit from the Department. (6-4-90)~~

~~101007.~~ -- 999. (RESERVED).

2004 - Transportation House Pending Rule (Yellow)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.46 - RULES GOVERNING STUDDERED TIRES

DOCKET NO. 39-0346-0301 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-201 and 49-948, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The purpose of this rulemaking is to repeal this Administrative Rule. HB231, effective July 1, 2003, incorporates the provisions of IDAPA 39.03.46 into Idaho Code, eliminating the need for this rule. No public comments were received regarding this rulemaking.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 6, 2003 Idaho Administrative Bulletin, Volume 03-8, Page 121.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Greg Laragan, Assistant Chief Engineer, Operations, 334-8535.

DATED this 1st day of October, 2003.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

IDAPA 39, TITLE 03, CHAPTER 46

RULES GOVERNING STUDDERED TIRES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, page 121.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Transportation House Pending Rule (Yellow)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.46 - RULES GOVERNING STUDED TIRES

DOCKET NO. 39-0346-0301 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 49-201 and 49-948 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

HB231, effective July 1, 2003, incorporates the provisions of IDAPA 39.03.46 into Idaho Code, eliminating the need for this rule. The purpose of this rulemaking is to repeal this Administrative Rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased.

This rulemaking does not impose or increase a fee or charge.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the provisions of this administrative rule are now duplicated in code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Greg Laragan, Assistant Chief Engineer, Operations, 334-8535.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2003.

DATED this first day of July, 2003.

Linda L. Emry, Management Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

IDAPA 39.03.46 IS BEING REPEALED IN ITS ENTIRETY.

2004 - Transportation House Pending Rule (Yellow)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.63 - RULES GOVERNING TRAFFIC ACCIDENT MEMORIALS

DOCKET NO. 39-0363-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-1316 and 55-2201 through 2210, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, pages 201 through 205.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Holland, Transportation Staff Engineering Assistant, 334-8565.

DATED this 17th day of June, 2003.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39, TITLE 03, CHAPTER 63

RULES GOVERNING TRAFFIC ACCIDENT MEMORIALS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-12, December 4, 2002, pages 201 through 205.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Transportation House Pending Rule (Yellow)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.63 - RULES GOVERNING TRAFFIC ACCIDENT MEMORIALS

DOCKET NO. 39-0363-0201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 49-1316 and 55-2201 through 2210, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 18, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Changes to the existing rule include: removal of the gold star as the only allowable traffic accident memorial; new guidelines for fabrication and placement of traffic accident memorials; provision for removal on non-conforming memorials; requirement for notification of adjacent property owners before placement; and guidelines for safety of the participants when on the state highway system.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This action is necessary to bring the rule into compliance with the changes to Section 49-1316, Idaho Code, in Senate Bill 1137, effective July 1, 2001.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose or increase any fee or charge.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is necessary to bring the rule into compliance with Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Holland, Transportation Staff Engineering Assistant, 208-334-8565.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before December 26, 2002.

DATED this 23rd day of October, 2002.

Linda L. Emry, Management Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

2004 - Transportation House Pending Rule (Yellow)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0363-0201

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.03.63, "Rules Governing Traffic Accident Memorials," IDAPA 39, TITLE 03, Chapter 63. (1-1-03)T

02. Scope. This rule specifies ~~the~~ procedures to ~~be followed when erecting golden stars~~ erect traffic accident memorials, hereafter referred to as memorial(s), in memory of people killed in traffic accidents on Idaho state highways under the jurisdiction of the Idaho Transportation Department (Department), pursuant to Section 49-1316, Idaho Code. (9-14-92)(1-1-03)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (1-1-03)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (1-1-03)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (1-1-03)T

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS – PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P.O. Box 7129, Boise ID 83707-1129. (1-1-03)T

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (1-1-03)T

03. Telephone and FAX numbers. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858. (1-1-03)T

04. Idaho Transportation Department District Offices are at the following locations: (1-1-03)T

a. Idaho Transportation Department District 1
605 Prairie, Coeur d'Alene
Mailing address - P.O. Box D, Coeur d'Alene, Idaho 83814
Office Hours - 7 a.m. to 4 p.m., Pacific Time Zone
Phone – (208) 772-1200 (1-1-03)T

b. Idaho Transportation Department District 2
26th and North and South Highway, Lewiston
Mailing address - P.O. Box 837, Lewiston, Idaho 83501
Office Hours - 7 a.m. to 4 p.m., Pacific Time Zone
Phone – (208) 799-5090 (1-1-03)T

c. Idaho Transportation Department District 3
8150 Chinden Blvd., Boise
Mailing address - P.O. Box 8028, Boise, Idaho 83707
Office Hours - 8 a.m. to 5 p.m., Mountain Time Zone
Phone – (208) 334-8300 (1-1-03)T

d. Idaho Transportation Department District 4

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216 Date Street, Shoshone

Mailing address - P.O. Box 2-A, Shoshone, Idaho 83352

Office Hours - 8 a.m. to 5 p.m., Mountain Time Zone

Phone – (208) 886-7800

(1-1-03)T

e. Idaho Transportation Department District 5

5151 South 5th, Pocatello

Mailing address - P.O. Box 4700, Pocatello, Idaho 83201

Office Hours - 8 a.m. to 5 p.m., Mountain Time Zone

Phone – (208) 239-3367

(1-1-03)T

f. Idaho Transportation Department District 6

206 North Yellowstone, Rigby

Mailing address - P.O. Box 97, Rigby, Idaho 83442

Office Hours - 8 a.m. to 5 p.m., Mountain Time Zone

Phone – (208) 745-8735

(1-1-03)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code.

(1-1-03)T

0027. -- 099. (RESERVED).

100. GENERAL.

In accordance with Section 49-1316, Idaho Code, relatives or friends of a person killed in a traffic accident upon a non-interstate highway of the state highway system may erect a golden star apply for a permit to erect a memorial in memory of the decedent. The decedent's next of kin must approve the star before friends can place it at the accident site. The golden star must be erected adjacent to the portion of the highway where the accident occurred. Only one (1) star may be placed for each fatal accident. Stars are not permitted on interstate highways, or within boundaries of incorporated cities. Only one (1) memorial may be placed per fatal accident. Memorials placed before January 1, 2003 may be retained if they meet all of the requirements of Section 200 and Subsections 300.01 thorough 300.03.

(9-14-92)(1-1-03)T

101. PERMIT.

After January 1, 2003, relatives or friends of a person killed in a traffic accident upon a state highway shall obtain an approved encroachment permit from the Department prior to installing, maintaining or removing a memorial within the state highway right-of-way. As a condition of permit approval, the individual(s) wishing to install a memorial must provide the Department with the following:

(1-1-03)T

a. Written approval from the decedent's next of kin, who are related by blood, marriage or adoption;

and

(1-1-03)T

b. Written approval from all property owners whose property is within a five hundred foot (500') radius of the proposed memorial location.

(1-1-03)T

1042. -- 199. (RESERVED).

200. PHYSICAL REQUIREMENTS.

The maximum tip-to-tip dimensions of the star shall be twelve (12) inches a memorial shall be thirty-six (36) inches high, sixteen (16) inches wide and shall weigh no more than seven (7) pounds. The star shall be made of high-grade plywood, plastic, aluminum, or steel material as commonly used for highway signs. The height requirement shall be measured from the ground level to the highest point on the memorial, the width shall be measured horizontally at the memorial's widest point and the weight is based on the portion above the ground.

(9-14-92)(1-1-03)T

01. Shape And Color. Stars Memorials shall be gold color and the standard five (5) point design not be shaped or colored to portray, resemble or conflict with any traffic control device. The top point of the star shall point in a vertical direction. Stars shall be attached via two (2) bolts to an upright post. No other signs or items shall

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~~be attached to the post.~~ The ~~star~~ memorial shall not be reflectorized.

~~(9-14-92)~~(1-1-03)T

~~02. **Installation.** Each post shall be of a U-shaped steel section similar to a highway delineator post weighing approximately one point twelve (1.12) pounds per linear foot. The person installing the post must comply with the call before you dig requirements of Sections 55-2201 through 2210, Idaho Code, before installing the post.~~

~~(9-14-92)~~

~~032. **Additional Requirements Adornment.** No text or items of adornment shall be ~~hung from~~ placed on or near ~~the star~~, and no inscription shall be placed on the ~~star~~ a memorial.~~

~~(9-14-92)~~(1-1-03)T

~~03. **Memorial Site.** Planting or landscaping at a memorial is prohibited.~~

(1-1-03)T

201. -- 299. (RESERVED).

300. ~~APPROVAL~~ LOCATION.

Memorials must be erected as near as practical to the milepost location where the accident occurred. The person installing the memorial shall be responsible for contacting a utility locating service to identify the location of any utilities in the area prior to placement of the memorial. See call-before-you-dig requirements in Sections 55-2201 through 2210 of Idaho Code. The applicant shall also be required to meet on site with the Department highway maintenance supervisor assigned to the area where a ~~star~~ memorial is to be erected ~~shall approve the star location so as to minimize any adverse effect on maintenance operations such as mowing, snowplowing, etc. to review the proposed installation.~~ The Department highway maintenance supervisor will be responsible for final approval of the memorial location.

~~(9-14-92)~~(1-1-03)T

~~01. **Shoulder.** Memorials shall be placed as far as practical from the edge of roadway, but must be placed a minimum of twenty (20) feet from the roadway shoulder where highway right-of-way width permits.~~

(1-1-03)T

~~02. **Medians.** Placement of an accident memorial in the median of any interstate or non-interstate highway is prohibited.~~

(1-1-03)T

~~03. **Incorporated Cities.** Memorials are prohibited within the boundaries of incorporated cities.~~

(1-1-03)T

301. -- 399. (RESERVED).

400. SAFETY ~~PRECAUTIONS~~.

~~01. **Placement Location.** Stars shall be placed as far as practical from the highway traffic but must be placed a minimum of twenty (20) feet from the highway shoulder where highway right-of-way width permits. Stars shall be mounted at an elevation approximately four (4) feet above the ground.~~

~~(9-14-92)~~

~~021. **Installation Or Maintenance Parking.** Installation or maintenance family members and friends Those participating in the installation, ~~or~~ maintenance, or removal of the ~~star must~~ memorial shall park their vehicle(s) as far as practical from the ~~traffic~~ travel lanes and in an area where there is adequate sight distance on the highway ~~is good~~ in both directions.~~

~~(9-14-92)~~(1-1-03)T

~~032. **Degree Of Safety Participants And Motorists.** Those participating in the installation, maintenance, or removal of a memorial must wear proper safety attire and obey all safety procedures approved by the Department at the time of permit issuance. A high degree of safety must be maintained for the ~~motorist~~ traveling public and the participants ~~must be maintained~~ during the installation, maintenance, or removal of a memorial.~~

~~(9-14-92)~~(1-1-03)T

401. -- 499. (RESERVED).

500. MAINTENANCE ~~REQUIREMENTS~~.

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~~01. Responsibility. The Idaho Transportation Department will not~~ The Department shall not be responsible for maintenance, vandalism, damage, or theft of a memorial. The permittee shall be responsible for maintenance, ~~vandalism, or theft~~ of the ~~star or post~~ memorial. All memorials must be maintained in good condition at all times and in a manner that complies with this rule. ~~(9-14-92)~~(1-1-03)T

~~02. Maintenance Responsibility. Stars must be maintained in good condition or they will be removed by the highway maintenance supervisor.~~ ~~(9-14-92)~~

~~03. Additional Conditions. No planting or landscaping work shall be done at the star location.~~ ~~(9-14-92)~~

501. COMPLIANCE.

01. Improper Installation. Memorials not installed in compliance with this rule shall be subject to removal by the Department. (1-1-03)T

02. Maintenance. Memorials not maintained in good condition shall be subject to removal by the Department. (1-1-03)T

03. Traffic Hazard. Memorials that have been installed or maintained in such a manner that either the memorial or the participants create a traffic hazard shall be subject to removal by the Department. (1-1-03)T

~~5042.~~ -- 999. (RESERVED).

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